



*Commonwealth of Virginia*

*VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY*

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December 10, 2021

Mr. Randall Eads  
City Manager  
Bristol Virginia Integrated Solid Waste Facility  
300 Lee Street  
Bristol, Virginia 24201

**NOTICE OF VIOLATION**

Re: NOV No. ASWRO001691-004  
Bristol Virginia Integrated Solid Waste Facility – 2655 Valley Drive, Bristol, VA  
Registration No. 11184

Dear Mr. Eads:

This letter notifies you of information upon which the Department of Environmental Quality (Department or DEQ) may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that the City of Bristol Virginia (Bristol) may be in violation of the Air Pollution Control Law and Regulations at the Bristol Virginia Integrated Solid Waste Management Facility (Facility).

This letter addresses conditions at the facility named above, and also cites compliance requirements of the Air Pollution Control Law and Regulations. Pursuant to Va. Code § 10.1-1309 (A)(vi), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 *et seq.* (APA). The Department requests that you respond **within 10 days of the date of this letter.**

**OBSERVATIONS AND LEGAL REQUIREMENTS**

On July 2, 2021, Bristol submitted a letter to DEQ requesting authorization to operate multiple landfill gas wells at temperatures higher than 131 °F (55 °C). In a letter to EPA Region 3, dated July 26, 2021, Bristol requested authorization to operate landfill gas wells at higher operating temperatures and use gas treatment alternatives. On August 23, 2021, EPA issued authorization to operate specific landfill gas wells (#s 35, 39, 40, 46 and 47) at higher operating temperatures and utilize gas treatment alternatives at the Facility for up to one calendar year, with additional reporting requirements. On September 28, 2021,

Subpart AAAA operational standards for the wellhead temperature operating standard changed from 131 °F (55 °C) to 145 °F (62.8 °C) for operation of each interior wellhead in the collection system.

On October 15 and 16 of 2021, DEQ received monthly gas well monitoring data for the period beginning July 2021 to October 21, 2021 from Bristol.

On December 6, 2021, DEQ staff conducted a PCE of the monthly landfill gas well monitoring data for the period beginning July 2021 to October 21, 2021. The following describes the staff's factual observations and identifies the applicable requirements.

1. *Observation: Gas Well Head Temperatures* – For the time period July 1, 2021 to August 23, 2021, Bristol reported that landfill gas well #s 37, 40, 46, and 47 had measured temperatures exceeding 131 °F (55 °C) for greater than 15 days.

For the time period August 24, 2021 to September 28, 2021, Bristol reported that landfill gas well #s 30R and 42 had measured temperatures exceeding 131 °F (55 °C) for greater than 15 days. Temperatures in gas well 30R ranged from 79 °F to 141 °F. Temperatures in gas well 42 ranged from 110 °F and 150 °F.

For time period September 28, 2021 to October 21, 2021, no landfill gas wells had measured temperatures exceeding 145 °F for greater than 15 days, except landfill gas wells 46 and 47, which have been approved by EPA to operate at higher temperatures.

#### **Legal Requirements:**

**\* Permit Condition No. 2.e. of the Title V Permit effective March 13, 2021 and Permit Condition No. 2.e. of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) state in part: “The permittee shall construct and operate a landfill gas (LFG) collection and control system which: (e) Is operated with each interior wellhead in the collection system having a landfill gas temperature less than 55 °C...”**

**\* Permit Condition No. 7 of the Title V Permit effective March 13, 2021 states: “Except where this permit is more restrictive than the applicable requirement, the MSW landfill, P01, shall be constructed and operated in compliance with the requirements of 40 CFR Part 60 Subpart WWW, 9VAC5-40 Article 43.1 and 40 CFR Part 63 Subpart AAAA.”**

**\* Permit Condition No. 12 of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) states: “Except where this permit is more restrictive than the applicable requirement, the municipal solid waste landfill as described in the Introduction shall be operated in compliance with the requirements of 40 CFR 60, Subpart WWW.”**

**\* 40 CFR 60.753(c) states each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of § 60.752(b)(2)(ii) of this subpart shall operate each interior wellhead in the collection system with a landfill gas temperature less than 55 °C and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent.**

2. *Observation:* Gas Well Head Oxygen Concentrations – For the time period July 1, 2021 to September 28, 2021, Bristol reported that landfill gas well #s 1, 2, 3, 6, 7, 8, 9, 10, 12, 15, 16, 18, 23, 24, 25, 29R, 30R, 40, 41, 42, 47 and 48R had measured oxygen exceedances in excess of 5% for more than 15 days.

**Legal Requirements:**

**\* Permit Condition No. 2.e.ii. of the Title V Permit effective March 13, 2021 and Permit Condition No. 2.e.ii. of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) state in part: “The permittee shall construct and operate a landfill gas (LFG) collection and control system which: (e) Is operated with each interior wellhead in the collection system having a landfill gas temperature less than 55 °C and...: ii. An oxygen content less than 5% as determined by an oxygen meter using EPA Method 3A or 3C (reference 40 CFR 60 Appendix A)...”**

**\* Permit Condition No. 7 of the Title V Permit effective March 13, 2021 states: “Except where this permit is more restrictive than the applicable requirement, the MSW landfill, P01, shall be constructed and operated in compliance with the requirements of 40 CFR Part 60 Subpart WWW, 9VAC5-40 Article 43.1 and 40 CFR Part 63 Subpart AAAA.”**

**\* Permit Condition No. 12 of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) states: “Except where this permit is more restrictive than the applicable requirement, the municipal solid waste landfill as described in the Introduction shall be operated in compliance with the requirements of 40 CFR 60, Subpart WWW.”**

**\* 40 CFR 60.753(c) states each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of § 60.752(b)(2)(ii) of this subpart shall operate each interior wellhead in the collection system with a landfill gas temperature less than 55 °C and with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent.**

3. *Observation:* Gas Well Head Pressures - For the time period July 2021 to October 21, 2021, Bristol reported that landfill gas well #s 39, 40 and 47 had measured positive pressures for more than 15 days.

**Legal Requirements:**

**\* Permit Condition No. 2.d. of the Title V Permit effective March 13, 2021 and Permit Condition No. 2.d. of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) state: “The permittee shall construct and operate a landfill gas (LFG) collection and control system which: d. Is operated with each wellhead under negative pressure except as provided in 40 CFR 60.34f(b).”**

**\* Permit Condition No. 7 of the Title V Permit effective March 13, 2021 states: “Except where this permit is more restrictive than the applicable requirement, the MSW landfill, P01,**

**shall be constructed and operated in compliance with the requirements of 40 CFR Part 60 Subpart WWW, 9VAC5-40 Article 43.1 and 40 CFR Part 63 Subpart AAAA.”**

**\* Permit Condition No. 12 of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) states: “Except where this permit is more restrictive than the applicable requirement, the municipal solid waste landfill as described in the Introduction shall be operated in compliance with the requirements of 40 CFR 60, Subpart WWW.”**

**\* 40 CFR 60.753(b) states each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of § 60.752(b)(2)(ii) of this subpart shall operate the collection system with negative pressure at each wellhead.**

**\* 40 CFR 63.1958(b) states each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of § 63.1957 must operate the collection system with negative pressure at each wellhead.**

4. *Observations:* Bristol reported that landfill gas well # 32 was not monitored for temperature, oxygen or pressure for the months of August, September, and October 2021. Additionally, Bristol reported that landfill gas well # 36 was not monitored for temperature, oxygen or pressure for the month of August 2021.

**Legal Requirements:**

**\* Permit Condition No. 9 of the Title V Permit effective March 13, 2021 and Permit Condition No. 6 of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) state in part: “The operation of the gas collection system shall be monitored as follows: (a) The following items shall be monitored each month: (i) Gauge pressure in the collection header at each individual well. (ii) LFG temperature in each well. (iii) Nitrogen concentration or oxygen concentration in each well...”**

**\* Permit Condition No. 7 of the Title V Permit effective March 13, 2021 states: “Except where this permit is more restrictive than the applicable requirement, the MSW landfill, P01, shall be constructed and operated in compliance with the requirements of 40 CFR Part 60 Subpart WWW, 9VAC5-40 Article 43.1 and 40 CFR Part 63 Subpart AAAA.”**

**\* Permit Condition No. 12 of the New Source Review Permit approved July 7, 2003 (amended November 13, 2003, October 13, 2004 and September 30, 2015) states: “Except where this permit is more restrictive than the applicable requirement, the municipal solid waste landfill as described in the Introduction shall be operated in compliance with the requirements of 40 CFR 60, Subpart WWW.”**

**\* 40 CFR 60.756(a) states each owner or operator seeking to comply with § 60.752(b)(2)(ii)(A) for an active gas collection system shall install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead and:**

**(1) Measure the gauge pressure in the gas collection header on a monthly basis as provided in § 60.755(a)(3); and**

**(2) Monitor nitrogen or oxygen concentration in the landfill gas on a monthly basis as provided in § 60.755(a)(5); and**

**(3) Monitor temperature of the landfill gas on a monthly basis as provided in § 60.755(a)(5).**

**\* 40 CFR 63.1961(a) states each owner or operator seeking to comply with § 63.1959(b)(2)(ii)(B) for an active gas collection system must install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead and:**

**(1) Measure the gauge pressure in the gas collection header on a monthly basis as provided in § 63.1960(a)(3); and**

**(2) Monitor nitrogen or oxygen concentration in the landfill gas on a monthly basis and...**

**(4) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with the operational standard for temperature in § 63.1958(c)(1), monitor temperature of the landfill gas on a monthly basis as provided in § 63.1960(a)(4).**

*\*9 VAC 5-170-160(A) – (Conditions on Approvals) of the Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution states in part: “The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits.”*

*\*Va. Code § 10.1-1322(A) gives the Department the authority to issue, amend, revoke or terminate and reissue permits, and failure to comply with any condition of a permit is considered a violation of the Air Pollution Control Law.*

#### **ENFORCEMENT AUTHORITY**

Va. Code § 10.1-1316 of the Air Pollution Control Law provides for an injunction for any violation of the Air Pollution Control Law, the Air Board regulations, an order, or permit condition, and provides for a civil penalty up to \$32,500 per day of each violation of the Air Pollution Control Law, regulation, order, or permit condition. In addition, Va. Code §§ 10.1-1307 and 10.1-1309 authorizes the Air Pollution Control Board to issue orders to any person to comply with the Air Pollution Control Law and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Also, Va. Code § 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Air Pollution Control Law and regulations, and to impose a civil penalty of not more than \$10,000. Va. Code §§ 10.1-1320 and 10.1-1309.1 provide for other additional penalties.

The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

#### **FUTURE ACTIONS**

DEQ staff wishes to discuss all aspects of their observations with you, including any actions needed to ensure compliance with state law and regulations, any relevant or related measures you plan to take or have taken, and a schedule, as needed, for further activities. In addition, please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In order to avoid adversarial enforcement proceedings, City of Bristol Virginia may be asked to enter into a Consent Order with the Department to formalize a plan and schedule of corrective action and to settle any outstanding issues regarding this matter, including the assessment of civil charges.

In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ's Process for Early Dispute Resolution. Also, if informal discussions do not lead to a satisfactory conclusion, you may request in writing that DEQ take all necessary steps to issue a final decision or fact finding under the APA on whether or not a violation has occurred. For further information on the Process for Early Dispute Resolution, please see Agency Policy Statement No. 8-2005 posted on the Department's website under "Permit & Regulations," "Enforcement," and "Resources" (<https://www.deq.virginia.gov/permits-regulations/enforcement>) or ask the DEQ contact listed below.

Please contact me at (276) 676-4829 or [crystal.bazyk@deq.virginia.gov](mailto:crystal.bazyk@deq.virginia.gov) **within 10 days of the date of this letter** to discuss this matter.

Sincerely,



Crystal C. Bazyk  
Enforcement and Air Compliance Monitoring Manager

cc: Jeff Hurst - Regional Director  
Kerri Nicholas, CO Enforcement